

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, August 1, 2001

Division Two

**A095724 -- In re Gary I. Valentine, on Habeas Corpus.**

By the court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Four

**A091906 -- The People v. Adrian Masga Aguon.**

The judgment is affirmed. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091433 -- In re Farokh J. a Person Coming Under the Juvenile Court Law. The People v. Farokh J.**

The judgment is affirmed. Sepulveda, Acting P.J. We Concur: Kay, J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A090740 -- Thomas E. Niederreuther et al. v. Moss and Hough et al.**

The judgment of dismissal is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Corrigan, J. (Not for Publication.)

Wednesday, August 1, 2001 (continued)

**A093482 -- In re Bobby P., a Person Coming Under the Juvenile Court Law. The People v. Bobby P.**

The order sustaining the petition is modified by striking the finding on count two for possession of a firearm. In all other respects the order continuing defendant as a ward of the court is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, August 2, 2001

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer J. Keirse, Bailiff.

- A095490 Carrie H., et al.,  
v.  
Superior Court of Alameda County;  
Alameda County Dept. of Social Services, et al.  
Cause called and argued by Jack Leavitt, counsel for petitioners, and Nedra Shawler, Deputy County Counsel, and James Blackman, counsel for real parties in interest. Cause ordered submitted.
- A093568 Sean Yates,  
v.  
County of Contra Costa, et al.  
Cause called and argued by Alison Berry-Wilkinson, counsel for appellant, and Mike Capizzi, counsel for respondent. Cause ordered submitted.
- A093226 Estate of Charles Neil Johnson.  
Clara B. Johnson,  
v.  
Carol Gates.  
Cause called and argued by Frank Roesch, counsel for appellant. There was no appearance on behalf of respondent. Cause ordered submitted.
- A091423 Insurance Commissioner,  
v.  
Golden Eagle Insurance Company;  
Salem Somo, et al.  
Cause called and argued by Patrick E. Catalano, counsel for appellants, and Andrew McCloskey, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, August 2, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Strankman, J. (retired Presiding Justice assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution), and Swager, J.; B. Robbins, Deputy Clerk; and CHP Officer S. Aldridge, Bailiff.

A092403

Robert T. Adcock, et al.,

v.

Levy, Samrick & Bernard, Inc., et al.

Cause called and argued by Marc P. Fairman, counsel for appellants, and Mark Fogelman, counsel for respondents. Cause ordered submitted.

Court adjourned.

Thursday, August 2, 2001

Division Two

**A091778 -- The People v. Floyd Darn.**

The judgment is affirmed but the case is remanded to the trial court for resentencing. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

**A089941-- The People v. Euel Branch.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J. Parrilli, J. (Certified for Partial Publication.)

Division Four

**A091048 -- The People v. Ruben Sanchez.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Division Five

**A091297 -- The People v. Emilio Castro.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A091491 -- The People v. Robert Lee Kennedy**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

Friday, August 3, 2001

Division One

**A095490, A095495 -- Carrie H., et al. v. The Superior Court of Alameda County; Alameda County Social Services Agency, et al., R.P.I.**

This opinion is final as to this court immediately. All stay orders previously imposed shall remain in effect until the remittitur issues. Nothing in this opinion is intended to effect a stay of the section 366.26 hearing presently scheduled for August 10, 2001. The parties shall bear their own costs. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A091642 -- Jessie Katz et al. v. County of Humboldt et al.**

The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J.,\* Stein, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089095 -- Napa Citizens For Honest Government et al. v. Napa County Board of Supervisors.**

The judgment is affirmed. The order granting the County's demurrer to petitioners' complaints is affirmed. Each party will bear its own costs on appeal. Stein, J. We Concur: Strankman, P.J.,\* Marchiano, J. (Certified for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

**A095679 -- Clayton Collins v. The Superior Court of Alameda County; The People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

Friday, August 3, 2001 (continued)

**A093445 -- Jaime Melton v. State Farm Mutual Automobile Insurance Co.**

The judgment is affirmed. State Farm is awarded Costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A092262 -- Melanie Welch v. Oakland Unified School District.**

**A092270 -- Mark Petrofsky v. Oakland Unified School District.**

We affirm the judgments. Welch and Petrofsky are awarded costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Five

**A091269 -- The People v. William H. Broussard.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A089604 -- The People v. Wayne Hughes.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Monday, August 6, 2001

Division Two

**A090456 -- Robert Bergstrom et al. v. County of San Mateo, Deputy Sheriffs' Association of San Mateo County and Teamsters Union Local 856, R.P.I.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A091050 -- The People v. Paul L. Chaney.**

**A092966 -- In re Paul L. Chaney on Habeas Corpus.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A095753 -- Gregory Larson v. The Superior Court of Alameda County; John Allen, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

Division Four

**A090081 -- The People v. Kevin Ray Devereaux.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)



Tuesday, August 7, 2001

Division One

**A089095 -- Napa Citizens for Honest Government et al. v. Napa County Board of Supervisors.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on August 3, 2001, be modified as follows. (See opinion.) There is no change in the judgment. Stein, Acting P.J. (Certified for Publication.)

Division Four

**A090075 -- The People v. Darryl Broome.**

The judgment is affirmed. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, August 7, 2001

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., and Kay, J; Pamela Aguilar, Deputy Clerk; CHP Officer Dan Mendias, Bailiff.

Counsel for all cases previously waived Justice Sepulveda's appearance on the bench for today's oral argument.

- A086309      Maria Lungu, M.D.  
                  v.  
                  The Kaiser Foundation Health Plan et al.  
Cause called. Steven Schear argued for appellant Lungu. Scott G. Lawson argued for respondent. Cause submitted.
- A088316      Maria Lungu, M.D.  
                  v.  
                  The Permanente Medical Group, Inc.  
Cause called.. JoAnne Dellaverson argued for appellant The Permanente Medical Group. Steven Schear argued for respondent. Cause submitted.
- A092887      People  
                  v.  
                  Reginald Lee Thorpe  
Cause called. Charles B. Holzhauer argued for appellant Thorpe. Martin S. Kaye argued for respondent. Cause submitted.
- A092240      David Trumball et al.  
                  v.  
                  Paul James et al.  
Cause called. Raymond Bangle argued for appellants Trumball et al. Heidi A. Timken argued for respondents. Cause submitted.

The Court adjourned at 10:53 a.m.

Wednesday, August 8, 2001

Division One

**A090876 -- The People v. Michael Ramirez.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on July 25, 2001 be modified as follows: (See order.) There is no change in the judgment. Stein, Acting P.J. (Certified for Publication.)

Division Two

**A090882 -- The People v. Jamarah Alqatarr Alishlah.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A095798 -- Robert Noel v. The Superior Court of San Francisco County; People of the State of California; R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

**A095791 -- Alvaro Rodriguez v. The Superior Court of Alameda County; People of the State of California, R.P.I.**

By the Court: The petition for writ of certiorari is denied. Haerle, Acting P.J.

**A093389 -- Shriners Hospitals For Children v. Margarita Geonanga.**

The judgment is affirmed. SHC is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Wednesday, August 8, 2001 (continued)

Division Four

**A088797 -- Danville Junior Horsemen v. Marjorie Humphrey, as Trustee, etc., et al.**

The judgment is affirmed. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A093821 -- The People v. Terry D. Kelly.**

The judgment of conviction is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Division Five

**A093736 -- In re Raymal M., a Person Coming Under the Juvenile Court Law. City and County of San Francisco Department of Human Services v. Raymond M.**

The order declaring the child a dependent of the juvenile court is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A092402 -- The People v. Howard Joseph Warns.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A092133 -- The People v. Alberto Barragan Esquivel.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, August 9, 2001

Division One

**A092403 -- Robert T. Adcock et al. v. Levy, Samrick & Bernard, Inc., a professional Corporation, et al., Silverwood Estates Development Limited Partnership, Judgment Creditor, R.P.I.**

The order is affirmed. Stein, Acting P.J. We Concur: Strankman, J.,\* Swager, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First District, sitting under assignment by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A093937 -- The People v. Charles Allen Morgan.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A090325 -- Avel Cantua, Jr. v. Bell Industries, Inc.**

The judgment is affirmed, and Bell is to pay costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A090801 -- The People v. Donnell Michael Davis.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A092375 -- The People v. Kempy Jackson.**

Appellant never appealed Judge Louie's order extending his commitment under section 1026.5. The instant appeal from Judge Kramer's denial of appellant's petition for restoration of sanity pursuant to section 1026.2 is therefore moot. Accordingly, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Thursday, August 9, 2001 (continued)

**A095818 - Marjorie Knoller v. The Superior Court of San Francisco County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

**A095506 -- In re Michael Stanley, Men's Advisory Council, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied for the reasons set forth in the trial court's order. (Cf. *Plata v. David* (N.D. Cal.) Civ. No. C-01-1351, a pending class action suit concerning the medical needs of state prison inmates.) Haerle, Acting P.J.

**A093858 -- The People v. Donna Kay Stone.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A090418 -- The People v. Justin D. Burrows.**

Judgment affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A093238 -- In re the Marriage of James and Dana Cloney. Dana J. Gregg v. James Michael Cloney; Lloyd Launer.**

The order quashing appellant's levy on the Property and denying her application for an order of sale is reversed. Appellant is awarded her costs on appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Certified for Publication.)

Thursday, August 9, 2001 (continued)

**A095201 -- Yama E. v. The Superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.**

**A095202 -- Ronald E. v. The Superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.**

The petitions for extraordinary relief are denied on the merits. (Cal. Const., art. no. VI § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Because the permanency planning hearing is set for September 12, 2001, our decision is immediately final as to this court. California rules of Court, rule 24(d.) Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A094055 -- Christopher Gilbert Smith v. Cal Terhune, as Director, etc., et al.**

In some cases, we will consider a moot appeal to decide an issue of broad public interest that is likely to recur (*Haywood v. Superior Court* (2000) 77 Cal.App.4th 949, 953), to decide a controversy that is likely to arise again between the same parties (*Dobbins v. San Diego County Civil Service Com.* (1999) 75 Cal.App.4th 125, 128), or where a material question remains for our determination (*Haywood v. Superior Court, supra*, at p. 953). None of these factors being present here, we will grant respondents' motion to dismiss the appeal as moot. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

## **MINUTES**

### **COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT**

#### **DIVISION FIVE**

Thursday, August 9, 2001

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., and Richard H. Sandvik, Deputy Clerk.

- A093010 California Teachers Association et al.  
v.  
Mendocino Unified School District et al.  
Cause called and argued by Robert H. James, counsel for appellant and by Phoebe Graubard, counsel for respondent. Cause ordered submitted.
- A093011 California Teachers Association et al.  
v.  
Mendocino Unified School District et al.  
Cause called and argued by Phoebe Graubard, counsel for appellant and by Robert H. James, counsel for respondent. Cause ordered submitted.
- A093710 In re the Estate of Jeff McNeal  
Joyce Gonzales-McNeal  
v.  
Climmie McNeal  
Cause called and argued by Joyce Gonzales-McNeal, appellant in pro per, counsel for respondent did not appear. Cause ordered submitted.
- A093669 Eric Artman  
v.  
Department of Motor Vehicles  
Cause called and argued by Douglas I. Horngrad, counsel for appellant and by Jerry Curtis, Deputy Attorney General, counsel for respondent. Cause ordered submitted.



A091788 Gail Castillo, a Minor, etc. et al.  
v.  
LeRoy Griffith Construction, Inc.  
Cause called and argued by John M. Ingle and Mark B. O'Connor, counsel for  
appellant and by Harlin B. Watkins, counsel for respondent. Further briefing  
ordered, submission deferred.

A093457 In re the Marriage of Semrin and Vahid Ettefagh.  
Semrin Ettefagh  
v.  
Vahid Ettefagh  
Hashem Ettefagh  
Cause called and argued by Carleton L. Briggs, counsel for appellant and by Carroll  
J. Collins, III, counsel for respondent. Cause ordered submitted.

A093799 In re Steven Caswell on Habeas Corpus.

Cause called and argued by Barbara Sutcliffe, Deputy Attorney General, counsel for  
appellant and by Michael Satris, counsel for respondent. Cause ordered submitted.

Court Recessed at 11:13 a.m.

Court Reconvened 11:35 a.m.

A093130 Hani Al-Zaghari  
v.  
Eva D. Al-Zaghari  
Cause called and argued by Shirley Remmert, appellant in pro per and by Darryl J.  
Billups, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:39 p.m.

Thursday, August 9, 2001 (continued)

**A089793 -- The People v. Herman Tiemens, Jr.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A090839 -- The People v. Rick Anthony Fernandez.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A094371 -- In re Alexis G., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Patrick G.**

The order declaring Alexis a dependent child of the juvenile court and denying reunification services to appellant is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A087398 -- The People v. Christopher Norman McCoy.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, August 10, 2001

Division One

**A091021 -- Insurance Commissioner of the State of California v. Golden Eagle Insurance Company; Geoff Gordon-Creed, as Administrator, etc. of the estate of Jill Rimmer.**

The order of the superior court is affirmed. Marchiano, J. We Concur: Strankman, P.J.,\* Swager, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091721 -- The People v. Tony Lynn Jocius.**

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on July 24, 2001, be modified as follows: (See order.) This modification does not affect a change in the judgment. The petition for rehearing is denied. Marchiano, Acting P.J. (Not for Publication.)

Division Two

**A091671 -- The People v. George Swan Aglow.**

The judgment and resentencing are affirmed. The matter is remanded, however, with directions for the trial court to order: (1) the program director's report, dated April 25, 2000, by Forensic Health Care, Inc., to be corrected with regard to statements about appellant's prior convictions; and (2) the minute order of the resentencing hearing amended to reflect the dismissal of count two and vacation of the previously imposed six-month sentence based on it. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Friday, August 10, 2001 (continued)

Division Two

**A088188, A089476 -- Barbara A. Finnegan v. Carl F. Schrader; West Bay Sanitary District.**

By the Court: The written opinion which was filed on July 11, 2001, as ordered modified herein, has now been certified for partial publication pursuant to rule 976(b) of the California Rules of Court. The portion of the opinion beginning with page 1 and continuing through the first paragraph on the top of page 13 and footnote no. 9, and including the Disposition section on page 21, is ordered published in the official reports. It is further ordered that the opinion be modified as follows: (See order.) *Thomas v. Call*, *Supra* 38 Cal.3d at p. 647. These modifications do not effect a change in the judgment. Kline, P.J.

Division Five

**A092112 -- The People v. Wendell Raymond Conrad.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A091274 -- The People v. William Randolph Johnson.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A093566 -- Sierra Club et al. v. California Coastal Commission; Catellus Residential Group. R.P.I.**

The order denying a preliminary injunction is reversed. The matter is remanded to the trial court for additional proceedings consistent with this opinion. Appellants shall recover costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, August 13, 2001

Division Two

**A092169 -- In re Sequoyah G., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Melinda O.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A092285 -- The People v. James Gregory Montgomery.**

The judgment of conviction is affirmed, but the case is remanded to the trial court for resentencing. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A093773 -- The People v. Damien Dwayne Olive.**

The order reinstating probation in Case Nos. TCR-327419 and MCR-336871 is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J.

**A093090 -- The People v. Eric Johnson.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A089052 -- Carol L. Price v. Dames & Moore et al.**

The Court: Submission of the above-entitled cause is vacated on the ground further consideration of the merits of the issues raised on appeal is required. The cause is hereby ordered resubmitted. McGuinness, P.J. (Not for Publication.)

**A092957 -- Rodolfo Velasquez v. Mary Gallagher, as Zoning Administrator, etc.**

The judgment is affirmed. Appellant to bear costs of appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Monday, August 13, 2001 (continued)

Division Four

**A089831 -- Classified Flea Market, Inc. v. Thomas Brian Kelly, Jr.**

The judgment is affirmed. Classified's motion for sanctions is denied. Costs are awarded to Classified. Chiantelli, J.\* We Concur: Sepulveda, Acting P.J., Kay, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, August 14, 2001

Division Two

**A095591 -- Bernard, Balgley & Bonaccorsi et al. v. The Superior Court of Alameda County; Brian R. Dinday, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

**A095803 -- In re Gregory A. Bogan, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A092051 -- The People v. Gregory Ealey.**

The judgment is amended to strike the order imposing a public defender fee of \$100 and the order imposing a probation investigation fee of \$100. As so amended, the judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A089195 -- The People v. Susan Lea Green.**

**A093153 -- In re Susan Lea Green, on Habeas Corpus.**

By the Court: The petition for rehearing is granted. The People are ordered to file a letter brief of not more than five (5) double-spaced pages within twenty (20) days of the date of this order addressing whether *People v. Pierce* (1979) 24 Cal.3d 199, 210 requires that this Court reach the merits of appellant's claim that that substantial evidence does not support her convictions for embezzlement and elder fraud. Haerle, Acting P.J.

**A092709 -- The People v. David Hayes.**

The matter is remanded for resentencing, with instructions to determine whether the Riverside County sentence should have run concurrently with or consecutive to the Marin County one. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Tuesday, August 14, 2001 (continued)

**A092345 -- Pat Lombardo et al. v. Kurt D. Huysentruyt.**

The judgment is reversed and the matter remanded for proceedings consistent with the views expressed herein. Appellants' request for sanctions is denied. Costs to appellants. Kline, P.J. We Concur: Ruvolo, J., Haerle, J. (See concurring opinion by Haerle, J.) (Certified for Publication.)

**A095200 -- In re Baby Girl M., a Person Coming Under the Juvenile Court Law. Superior Court of the County of Marin v. Shellie M.; Marin County Department of Social Services, R.P.I.**

The petition is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888; § 366.26, subd. (1)(1).) The stay of the section 366.26 hearing previously set for August 28, 2001, is lifted. Our decision is final immediately as to this court. (Cal. Rules of Court, rule 24 (d).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A095465 -- Janean M.S. v. The Superior Court of Sonoma County; Sonoma County Human Services Department, R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [precluding further challenge to order by petition in any subsequent appeal].) The temporary stay of the section 366.26 hearing set for September 5, 2001, is dissolved. In view of the imminence of the section 366.26 hearing, our decision is final immediately as to this court. (Cal. Rules of Court, rule 24(d).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Four

**A091258 -- The People v. David Eugene Albillar.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



Tuesday, August 14, 2001 (continued)

**A092585 -- In re the Marriage of Sharon and Irwin Entwistle. Sharon Entwistle v. Irwin W. Entwistle.**

The order is affirmed. Costs on appeal are awarded to respondent. Kay, J. We Concur: Reardon, Acting P.J., Haerle, J. (Not for Publication.)

**A091845 -- The People v. Jose Gamez.**

The judgment of conviction is conditionally modified to state that as of the date of sentencing (July 14, 2000), defendant was entitled to 90 days' credit under section 4019. However, this modification shall not take effect if, within 15 days after filing of this opinion, the District Attorney files in the superior court, and serves upon defendant and this court, a request for resentencing. In that event the matter shall, upon becoming final as to this court, be deemed remanded for resentencing in order to determine defendant's entitlement, if any, to such credits. If the District Attorney acquiesces in the modification, the judgment is affirmed as modified. Otherwise the matter is remanded as stated, and is in all other respects affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A092887 -- In re Pierre P., a Person Coming Under the Juvenile Court Law. The People v. Pierre P.**

The order of commitment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A092831 -- Pleasant Hill Bayshore Disposal, Inc. v. Chip-It Recycling, Inc., et al.**

The order is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)

Wednesday, August 15, 2001

Division Three

**A091963 -- Environmental Protection Information Center et al. v. California Dept. of Forestry and Fire Protection; Scotia Pacific Holding Company et al., R.P.I.**

The appeal is dismissed. The parties are to bear their own costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A089252 -- Randeep Singh v. City of Berkeley.**

Affirmed. Appellant is to bear respondent's costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A091278 -- The People v. Christopher Sudduth.**

The judgment is modified to strike appellant's conviction for assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)) along with the finding of great bodily injury on that count; the trial court is directed to prepare an amended abstract of judgment and forward a copy to the Department of Corrections. The judgment as modified is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A091905 -- Kathie Fallon v. City of Benicia.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A092913 -- In re Amahn H., a Person Coming Under the Juvenile Court Law. Marin County Department of Social Services v. Lanier H.**

Respondent's motion to dismiss the appeal is denied. The order is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, August 15, 2001 (continued)

Division Four

**A094051 -- Hong Jun Xun v. Dorothy Chao.**

The judgment of dismissal is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A083241 -- Bridge Information Co., LTD v. Edge Technologies Corporation.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, August 16, 2001

Division One

**A089562 -- Jack E. Pelletier v. C. Stephen Casalina et al.**

Order Granting Petition for Rehearing. The Court: The petition for rehearing is granted. Stein, Acting P.J. (Not for Publication.)

Division Two

**A091780 -- Gary F. Adams v. Department of Transportation.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A089555 -- The Housing Group et al. v. United National Insurance Company et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

**A095203 -- In re Jessica M., a Person Coming Under the Juvenile Court Law. The People v. Jessica M.**

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A091834 -- The People v. Dino Mark Thomas.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Thursday, August 16, 2001 (continued)

Division Five

**A093710 -- Estate of Jeff McNeal, Deceased. Joyce Gonzales McNeal v. Climmie Turner McNeal.**

The trial court's orders are affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, August 17, 2001

Division One

**A088668 -- In re Elizabeth A., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Juan A., et al.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A093813 -- In re Carlos C., a Person Coming Under the Juvenile Court Law. The People v. Carlos C.1`**

The judgment is affirmed. Stein, Acting P.J., Swager, J., Marchiano, J. (Not for Publication.)

**A093540 -- County of Napa v. Abraham Adu.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A093048 -- In re Jose R., a Person Coming Under the Juvenile Court Law. The People v. Jose R.**

The juvenile court is directed to amend the dispositional and commitment orders to reflect a misdemeanor offense on count 8, of the February 3, 1998 petition, and the correct maximum term of confinement of seven years and four months. In all other respects, the judgment and dispositional order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Three

**A093187 -- The People v. Charles Roy Giannotti.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A093965 -- In re Ricki S., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Debra W.**

The appeal is dismissed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)



Friday, August 17, 2001 (continued)

Division Four

**A093485 -- In re Aren B., a Person Coming Under the Juvenile Court Law.**

The judgment is reversed and the matter remanded to the trial court for further proceedings. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A091268 -- The People v. Paul David Johnson.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A090488/A091513 -- Martin F. Triano v. 100 Bush Corporation. 100 Bush v. Martin F. Triano, DuPont Flooring systems, Inc.**

The judgment is affirmed. On 100 Bush's appeals, costs are awarded to Triano and DuPont. On DuPont's appeal, costs are awarded to Triano. Chiantelli, J.\* We Concur: Sepulveda, Acting P.J., Kay, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A093130 -- Hani AL-Zaghari v. Eva D. Al-Zaghari et al.**

The orders appealed from are affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)



Monday, August 20, 2001

Division One

**A089760 - The People v. Steven R. Nary.**

For the reasons stated, the judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093327 -- Paul D. Smith, Jr. v. Collin S. Swami.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A090516 -- The People v. Christopher Scott Hoag.**

The judgment is amended to strike the order imposing the Penal Code section 1202.45 restitution fine of \$400 and the order imposing a fee of \$265 for preparation of the probation report and \$165 for supervision of probation. As so amended, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A092911 -- The People v. Vincent Jerome Glasper.**

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A092397 -- Andrew P. v. San Francisco Unified School District.**

The order granting judgment notwithstanding the verdict is reversed. The matter is remanded to the trial court with instructions to reinstate the judgment originally entered on the jury's special verdict. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Tuesday, August 21, 2001

Division One

**A092692 -- The People v. Joseph Archie Bernier.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A092405 -- The People v. John T. Stanley.**

The order executing the previously imposed judgment is affirmed. Stein, Acting P.J., We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A093842 --Peter V.G. Jefferson v. County of Napa et al.**

Appellant appeals from an adverse ruling of July 17, 2000 on an Order to Show Cause re Contempt and from an order of December 12, 2000 denying his motion for a new trial. Neither order is appealable. An order refusing to hold a party in contempt is not appealable. (Code Civ. Proc. § 904.1, subd. (a) (1) (B); see Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2000) [¶] 2:29, p. 2-18.) An order denying a new trial is not appealable. (*Deschene v. Pinole Point Steel Co.* (1999) 76 Cal.App.4th 33, 37, fn. 1.) Moreover, when the original ruling is not appealable in its own right, then an order denying reconsideration of that ruling or a “new trial” also is not appealable. (*Blue Mountain Development Co. v. Carville* (1982) 132 Cal.App.3d 1005.) Therefore, appellant’s appeal is dismissed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093816 -- The People v. Almjermyn Tyler.**

By the Court: Appellant’s motion to reinstate the appeal is denied. Stein, Acting P.J.

Division Two

**A093079 -- John Rolf Hattam v. The Salvation Army.**

We affirm the decision of the trial court. Respondent shall have its costs on appeal. Lambden, J. We Concur: Kline, P.J., Ruvalo, J. (Not for Publication.)

Tuesday, August 21, 2001 (continued)

**A092741 -- In re Jeffery M., a Person Coming Under the Juvenile  
Court Law. The People v. Jeffery M.**

The order of commitment is affirmed. Kline, P.J. We Concur: Haerle, J.,  
Lambden, J. (Not for Publication.)

Tuesday, August 21, 2001 (continued)

Division Two

**A091281 -- The People v. Joseph M. Stevenson.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A090940 -- In re Francine Michelle J., a Person Coming Under the Juvenile Court Law. The People v. Francine Michelle J. In re Francine Michelle J., on Habeas Corpus.**

We affirm the judgment and deny the petition. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A091155 -- In re Joshua L., a Person Coming Under the Juvenile Court Law. The People v. Joshua L.**

The order of the juvenile court is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A093992 -- The People v. Mark Douglas Johnston.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A092536 -- J.B. v. Planned Parenthood Golden Gate, et al.**

Order Modifying Opinion and Denying Rehearing The Court: It is ordered that the opinion filed herein on July 27, 2001, be modified as follows: (See order.) There is no change in judgment. Appellant's petition for rehearing is denied. McGuiness, P.J. (Not for Publication.)

**A092753 -- The People v. \$20, 733 United States Currency; Asriel Ismanuel Aquart.**

The final order of the trial court, determining that appellant lacks standing to contest the forfeiture, is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Tuesday, August 21, 2001 (continued)

Division Five

**A094120 -- In re Damonte L., a Person Coming Under the Juvenile Court Law.** Solano county Health and Social services Department v. Rodney L. The order terminating appellant's parental rights is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A090428 -- The People v. Tyrone Johnson Pollard.** The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A092455 -- The People v. Katherine Devera Cervantes.** The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A094586 -- Sung Ae Choi v. The Superior Court of Contra Costa County; The People, R.P.I.** The appeal from the denial of mandamus is dismissed as inoperative. In all other respects, the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Ruvolo, J.\*

Associate Justice, Division Two of the First District Court of Appeal,  
Assigned by the Chief Justice Pursuant to article VI, section 6 of the California Constitution.

**A095296 -- Rene N. The Superior Court on Sonoma County; Sonoma County Human Services Department, R.P.I.**

The petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (l).) Because the section 366.26 hearing is set for September 12, 2001, our decision is final as to this court immediately. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, August 21, 2001 (continued)

**A093380 --The People v. Arthur Edward Slonecker.**

Appellant's prospective waiver of section 2900.5 custody credits as a condition of probation is ordered stricken. In all other respects the judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, August 22, 2001

Division One

**A093568 -- Sean Yates v. County of Contra Costa et al.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Three

**A089912, A090291 -- Johnithan Rodney Guild v. Gerald N. Hill.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A093735 -- In re Steven M., a Person Coming Under the Juvenile Court Law. The People v. Steven M.**

The orders declaring the minor a ward of the court and placing him in his mother's custody under the supervision of the probation department are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A088095 -- The People v. Patrick Range.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091774 -- The People v. Perryn Quinn Rushing.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Wednesday, August 22, 2001 (continued)

**A092240 -- David Trumbull et al. v. Paul James et al.**

The summary judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)



Thursday, August 23, 2001

Division One

**A091887 -- Estate of Lucille Farrer, Deceased. George Trochet v. Samuel Foster.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A090901 -- The People v. Foster Shane Gaines.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A089562 -- Jack Pelletier v. C. Stephen Casalina et al.**

Although we granted rehearing, we find little merit in the points raised by appellant in his petition, and therefore reissue our opinion, with one small modification.. (See order.) The opinion will be modified to add a second paragraph to Section B, beginning on page 8 and extending to page 9, as follows: (See order.) Stein, Acting P.J. We Concur: Marchiano, J., Strankman, J.\*

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

**A089562 -- Jack Pelletier v. C. Stephen Casalina et al.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Strankman, J.,\* Marchiano, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090876 -- The People v. Michael John Ramirez.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Four

**A093295 -- Harry V. Martin v. Ho Young Chung et al.**

We affirm the order setting aside the default and default judgment. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Thursday, August 23, 2001 (continued)

**A091043 -- The People v. Reginald Lee Thorpe.**

The judgment is affirmed. Reardon, Acting P.J. . We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

**A091830 -- The People v. Lisa Michelle Connelly.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, August 24, 2001

Division One

**A091423 -- Insurance Commissioner of the State of California v. Golden Eagle Insurance Company; Salem Somo et al.**

The undisputed chronology of events in this case demonstrates a genuine dispute over the amount of covered damages for which Golden Eagle was responsible. Golden Eagle pursued appropriate legal avenues open to it and paid the amounts as they were determined to be due. We affirm the order and judgment. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093226 -- Estate of Charles Neil Johnson, Deceased. Carol Gates et al. v. Clara B. Johnson; Frank Roesch; Jerilyn Paik.**

The order is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A091642 -- Jessie Katz, et al. v. County of Humboldt, et al.**

By the Court: The petition for rehearing/request for modification is denied. Stein, Acting P.J.

**A092457 -- The People v. Stephen Craig Kingen.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A094077 -- In re James S., a Person Coming Under the Juvenile Court Law. The People v. James S.**

The order adjudicating appellant a continued ward of the court and placing him outside the family home is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A092834 -- Saadeh Corporation v. Pacific Towing, et al.**

By the Court: The petition for rehearing is denied. Swager, Acting P.J.

Friday, August 24, 2001 (continued)

Division Two

**A095965 -- Les Adams et al. v. The Superior Court of San Francisco County; Retirement Board of the City and County of San Francisco et al., R.P.I.**

By the Court: The petition for writ of prohibition/stay is denied. Haerle, Acting P.J.

**A092893 -- Kenneth W. Carpenter et al. v. Eller Media Company.**

The judgment is reversed and remanded for further proceedings consistent with this opinion. Eller is awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A092450 -- The People v. Jacob Wayne Hutchins.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on July 25, 2001, be modified as follows: (See order.) The abstract of judgment is ordered modified to strike the two-year enhancement imposed pursuant to former section 186.22, subdivision (b)(1), and to order that appellant not be paroled until he has served a minimum of 15 calendar years on his second degree murder conviction. There is no change in the judgment. McGuiness, P.J. (Certified for Partial Publication.)

Division Four

**A091490 -- The People v. Norman Philip Evers.**

The judgment is affirmed. Chiantelli, J.\* We Concur: Sepulveda, Acting P.J., Kay, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, August 24, 2001 (continued)

Division Five

**A091289 -- The People v. Paul D. Walls.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

Monday, August 27, 2001

Division One

**A092898 -- In re the Marriage of Raymond H. and Letitia A. Robinson.**

We have no power to rule on the order denying the motion to disqualify, the statement of decision or the July 27 minute order. There is no merit to appellant's attacks on the orders of August 22, 2000 and August 28, 2000. These orders, accordingly, are affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A093395 -- The People v. George A. Zapata.**

At the sentencing hearing, counsel urged the court to dismiss the strike prior because it was old and appellant had no similar re-offense. Counsel explained why appellant had left and returned to the United States. The court explained why it would not exercise its discretion to dismiss the prior, and sentenced appellant to 32 months in state prison, based on doubling the lower term. There was no error in the proceedings or in the sentence imposed. There are no issues requiring further briefing. The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A091132 -- Irvin S. Taylor et al. v. County of Marin et al.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A095603 -- Larry Christopher Graham v. The Superior Court of Contra Costa County; The People, R.P.I.**

Let peremptory writ of mandate issue directing the trial court (1) to vacate its order denying discovery to petitioner and (2) to exercise its jurisdiction to compel appropriately timed discovery of victim impact evidence. (See *Mitchell, supra*, 5 Cal.4th at p. 1239.) McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Monday, August 27, 2001 (continued)

**A091517 -- Anthony Johnson v. Alameda-Contra Costa Transit District.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A090523 -- Istvan Viragh v. George Benikovski.**

The judgment is reversed. The trial court is directed to enter an order denying Benny's motion for judgment on the pleadings. Plaintiff is awarded costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Tuesday, August 28, 2001

Division Two

**A093356 -- In re the Marriage of Toni Armanno and Richard Vasquez.  
Toni Armanno v. Richard Vasquez.**

The judgment is affirmed and respondent shall have her costs on appeal.  
Lambden, J. We Concur: Haerle, Acting P.J. Ruvo, J. (Not for Publication.)

**A088394 -- The People v. Ramon Beltran, et al.**

We affirm. Haerle, Acting P.J. We Concur: Lambden, J., Ruvo, J. (Not for Publication.)

**A091843 -- The People v. Nathaniel Brown.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvo, J. (Not for Publication.)

**A093002 -- Jose Cruz et al. v. Pacificare Health Systems, Inc. et al.**

Our holding in this case is a narrow one: Where, as here, a restitution claim is ancillary to injunctive relief sought under a statutory scheme whose primary purpose is to protect the public by punishing wrongdoing and deterring future violations, rather than to compensate individual plaintiffs, the restitution claim is not subject to arbitration, but must be tried along with the claim for injunctive relief in a court of law. Since the trial court properly ruled that all Cruz's claims are inarbitrable, we need not reach Pacificare's request for a stay pending arbitration, or any of the alternative "independent grounds" Cruz advances for affirmance. Accordingly, the parties' motions for judicial notice of documents relating to the issue of unconscionability are denied as moot. The order denying Pacificare's motion to compel arbitration is affirmed, and the matter remanded for further proceedings in accordance with this opinion. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Certified for Publication.)

**A091923 -- The People v. Edward L. Pruitt.**

We find no issues that require further briefing, and affirm the judgment.  
Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)



Tuesday, August 28, 2001 (continued)

Division Three

**A092089 -- County of Solano v. Jerry Herron.**

The order is affirmed. Parrilli, J. We Concur: McGuiness, P.J.. Corrigan, J. (Not for Publication.)

**A078462 -- The People v. Lawrence Adam Reeves.**

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on July 30, 2001, be modified as follows: (See order.) There is no change in the judgment. Respondent's petition for rehearing is denied. Corrigan, Acting P.J. (Certified for Publication.)

Division Four

**A091966 -- Med-Pro Industries v. William J. Lallas.**

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A094667 -- Royce Ford, Jr. v. The Superior Court of Alameda County; The People, R.P.I.**

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on July 31, 2001, be modified as follows: (See order.) These modifications do not change the judgment. The petition for rehearing is denied. Reardon, Acting P.J. (Certified for Publication.)

**A093471 -- The People v. Donald Raymond Claus.**

Claus's sentence for possession of a firearm by an ex-felon is reversed and the matter is remanded for resentencing on that charge. In all other respects, the judgment including the sentence is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Tuesday, August 28, 2001 (continued)

Division Five

**A093457 -- In re the Marriage of Semrin and Vahid Ettefagh. Semrin Ettefagh v. Vahid Ettefagh; Hashem Ettefagh.**

The order denying further attorney fees and costs pendente lite is reversed, and the matter is remanded for further proceedings consistent with this opinion. Costs on appeal are awarded to appellant, and appellant may request attorney fees on appeal by motion addressed to the trial court. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A092118 -- The People v. Stanley William Murphy, Jr.**

The judgment is affirmed. Simons, J. I Concur: Stevens, J. (See dissenting opinion by Jones, P.J.) (Not for Publication.)

Wednesday, August 29, 2001

Division Two

**A092114 -- The People v. Salvador Velasco Clavel.**

We reverse the sentence for the forcible sodomy conviction and remand to the trial court for resentencing on that count. In all other respects, we affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A092329 -- In re Rafael C., a Person Coming Under the Juvenile Court Law. The People v. Rafael C.**

We affirm the decision of the trial court. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A091596 -- The People v. Darryl Lee Goldstein.**

**A095763 -- In re Darryl Lee Goldstein on Habeas Corpus**

The judgment is affirmed. Petitioner's petition for habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A092182 -- In re Jose R., a Person Coming Under the Juvenile Court Law. The People v. Jose R.**

The school officials in this case were permitted to detain and question appellant. Their investigation was not arbitrary, capricious, or harassing, and appellant consented to be searched by voluntarily producing the knife. Accordingly, the trial court properly admitted the knife as evidence. We affirm. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A095905 -- In re Joseph Walker, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A093702 -- The People v. Robert Douglas West.**

The order revoking appellant's probation and committing him to state prison is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Wednesday, August 29, 2001 (continued)

Division Three

**A091512 & A092276 -- In re the Marriage of Janice M. Terrell and James R. Johnson.**

The orders are affirmed. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A091454 -- In re the Marriage of Joy C. Malcolm and Michael Malcolm.**

A091454 -- The order appealed from is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Thursday, August 30, 2001

Division One

**A092596 -- The People v. Jose Luis Luna.**

The judgment is modified to impose a restitution fine of \$10,000 and, as modified, is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A086708/A087959/A089660 -- Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissioners.**

In Appeal No. A086708, the judgment granting a peremptory writ of mandate is reversed in part and affirmed in part. The matter is remanded to the superior court with directions that the court issue a new writ of mandate consistent with this opinion. Appeal No. A089660 has been rendered moot by the court's lack of jurisdiction to enter an order discharging the writ. The matter is remanded to the superior court with directions that the court order the Port Commissioners to vacate the certification of the supplement to the EIR entered on June 29, 1999. The Port Commissioners shall be ordered not to take any further action to approve the project without the preparation, circulation and consideration under CEQA of a legally adequate EIR with regard to the issues discussed in this opinion.

In Appeal No. A087959, the superior court's order awarding \$180,000 attorney fees is hereby reversed. On remand, the court is to issue a new order awarding petitioners legal fees under Code of Civil Procedure section 1021.5 in accordance with the views expressed in this opinion. Petitioners are awarded their costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Partial Publication.)

**A095994 -- In re Timothy Bradly Farrell, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Thursday, August 30, 2001 (continued)

**A095999 -- Lorraine Y. v. The Superior Court of Alameda County;  
Department of Social Services, R.P.I.**

By the Court: The petition for extraordinary relief and stay is denied.  
Haerle, Acting P.J.

**A092488 -- The People v. Richard James Bodkins.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J.,  
Parrilli, J. (Not for Publication.)

Division Three

**A090617 -- The People v. Johnny Ralph Fannin.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J.,  
Corrigan, J. (Certified for Publication.)

**A092131 -- The People v. Rosa Ana Manrow.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J.,  
Parrilli, J. (Not for Publication.)

**A092951 -- In re the Marriage of Vanessa Montez and Jason Montez.**

The restraining order issued against Vanessa Montez only is reversed.  
Appellant is awarded costs on appeal. Corrigan, J. We Concur: McGuiness, P.J.,  
Parrilli, J. (Not for Publication.)

**A092254 -- Tong Park v. State of California.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J.,  
Parrilli, J. (Not for Publication.)

**A092141 -- Tong Park v. County of San Mateo et al.**

The trial court's order declaring appellant to be a vexatious litigant, and  
requiring him to obtain a pre-filing order from the court, is affirmed. Corrigan, J.  
We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Thursday, August 30, 2001 (continued)

**A093811/A095118 -- In re Savannah S., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Karen D. et al., In re Karen D., on Habeas Corpus**

The orders appealed from are affirmed. The petition for habeas corpus is denied. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A093143 -- Marcia Schnapp v. Albert Douglas Foster et al.**

The judgment is vacated and the matter is remanded to the trial court with instructions to overrule the demurrer. Appellant shall recover costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A091094 -- The People v. David Matheson Thomas.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A092488 -- The People v. Richard James Bodkins.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A092767 -- In re the Marriage of Nina Claire Sadek and Robert Clinton Burchfield.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

**A090293 -- In re the Marriage of Patricia and Joseph Destein.**

The order for child support is affirmed. Patricia shall recover costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

Thursday, August 30, 2001 (continued)

**A084505 -- The People v. Michael K. Robison.**

**A084750 -- The People v. Thomas William Taylor.**

The judgments are affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)



Friday, August 31, 2001

Division One

**A092707 -- The People v. Vincent Porter.**

The judgment and sentence are affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A096049 -- In re Maurice Banks, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A096043 -- In re Patricia Ann Barrera.**

By the Court: The petition for writ of habeas corpus/mandate/prohibition/stay is denied. Haerle, Acting P.J.

**A096006 -- Adam Cauayani v. The Superior Court of San Francisco County, The People of The State of California, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Petitioner has failed to present a sufficient record for appellate review of this issue. Haerle, Acting P.J.

**A090394 -- Insurance Commissioner of the State of California v. Professional Prototype I Insurance Company, LTD., et al., Arleigh Eugene Cox.**

The appeal is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A096031 -- Jerilyn Jacobson et al. v. The Superior Court of Marin County; County of Marin, R.P.I.**

By the Court: The petition for writ of mandate/prohibition is denied. Petitioner has an adequate remedy by way of appeal. Haerle, Acting P.J.

Friday, August 31, 2001 (continued)

**A092262 -- Melanie Welch v. Oakland Unified School District.**

**A092270 -- Mark Petrofsky v. Oakland Unified School district.**

The Court: It is ordered that the opinion filed herein on August 3, 2001, good cause appearing, is Certified for Publication. Kline, P.J.

Division Three

**A093488 -- In re Melvin B., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Zena W.**

The orders are affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A093090 -- The People v. Eric Johnson.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

**A093056 -- In re Aileen C., et al., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v, John C.**

We affirm the orders terminating reunification services as to appellant. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A091354, A091361 -- Concord Communities, L.P. v. City of Concord.**

We reverse the judgments of the trial court and direct entry of judgments granting Communities's writs of mandate compelling the Board to vacate its decisions and reconsider what a fair return on investment would be. The Board in its discretion may take additional evidence or rely on the existing evidence, consistent with this opinion. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)